

Application No. 10/698,391
Attorney Docket No. DP-977 US (MAR.092)

REMARKS

Claims 1-8, 10, and 27 are all the claims currently under examination in the present application.

It is noted that the claims amendments are made only for pointing out the claimed invention more particularly, and not for distinguishing the invention over the prior art, narrowing the claims, or for statutory requirements for patentability. Further Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

As a preliminary matter, Applicant's representative would like to thank the Examiner for courtesies extended in the telephone interview conducted on June 29, 2009.

An Examiner's Interview Summary Record (PTOL-413) was mailed by the Examiner on July 2, 2009.

Applicant submits this Statement to comply with the requirements of M.P.E.P. 713.04.

In the interview, the following was discussed:

A. Identification of claims discussed:

Claim 27.

B. Identification of prior art discussed:

Applicant's Admitted Prior Art (the AAPA); and
Nara (US Patent No. 5,978,414).

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C. Identification of principal proposed amendments:

At the interview, the Examiner recommended amending claim 27 to further define the invention so that claim 27 would more particularly define the term "control." Accordingly, Applicant hereby amends claim 27 to recite, among other things, "a transmission controller for controlling a transmission rate of the transmission unit based on a judgment made by the judge section when the load data indicates a delay of the decoding of the data output from the transmission unit."

D. Brief Identification of principal arguments:

Contrary to the Examiner's allegation, Nara does not "control" a transmission rate based on a judgment of a transmission rate. Instead, Nara is directed to determining a transmission rate based on candidate transmission rates. In particular, receiver receives communications at transmission rates which vary in accordance with a selection made by the transmitter among a set of predetermined transmission rates, such as, for example, 1.2 kbps, 2.4 kbps, 4.8 kbps, and 9.6 kbps. *See* Nara, Col. 8, Lines 15-22. As a result of these varying candidate transmission rates, Nara determines which candidate rate is being utilized to determine how reliable each candidate rate is. The result of determining the transmission rate is that Nara determines whether the threshold value for reliability has been exceeded for the tested particular transmission rate. That is, a determination is made at each frame concerning the reliability of the received data. *See* Nara, Col. 9, Lines 31-40 where a "go no go" determination is made.

That is, contrary to the Examiner, Nara operates completely differently than the claimed invention. Instead of "a transmission controller for controlling a transmission rate of

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the transmission unit based on a judgment made by the judge section when the load data indicates a delay of the decoding of the data output from the transmission unit," as recited in independent claim 27, Nara uses the transmission rate to determine a reliability information of data and does not control the transmission rate thereof. That is, the Nara reference is erroneously applied and does not make up for the AAPA's admitted deficiencies.

E. Results of the Interview:

No conclusion was reached with respect to patentability of unamended claim 27.

F. Conclusion:

Applicant hereby submits that independent claim 27 has been amended to further recite "a transmission controller for controlling a transmission rate of the transmission unit based on a judgment made by the judge section when the load data indicates a delay of the decoding of the data output from the transmission unit." That is, consistent with the Examiner's argument that "control," can be broadly read, Applicant submits that claim 27 now defines "control," more particularly.

Accordingly, Applicant submits that claim 27 is in condition for allowance because the alleged combination of Nara and the AAPA fails to teach or suggest every element as recited within claim 27.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

In view of the foregoing, Applicant submits that claims 1-8, 10, and 27, all the claims presently under examination in the application, are patentably distinct over the prior art of

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record and are allowable, and that the application is in condition for allowance. Such action would be appreciated.

Moreover, Applicant requests rejoinder of the withdrawn claims.

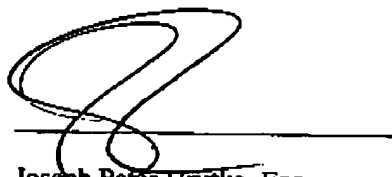
Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

The Commissioner is authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 8/3/9

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